

### **REMARKS**

The Office Action of December 24, 2003 has been reviewed and the Examiner's comments carefully considered. Claims 62-72 are currently pending in this application. Claims 62, 64-65 and 68 have been amended. Support for the new language contained in claims 62, 64-65 and 68 can be found on page 11, line 33 and continuing to page 12, line 11. No new matter has been added. In view of these amendments and of the following remarks, Applicants believe that all the asserted rejections are in condition for withdrawal and all the claims are in condition for allowance.

Claims 62-64, 66 and 69-72 stand rejected under 35 U.S.C. 112, second paragraph for purported indefiniteness. The Examiner asserts that claims 62-64, 66 and 69 do not mention anything about primers or PCR conditions used to obtain the fragment; that claims 70 and 71 are indefinite because they do not indicate if the progeny or seed contains the copies of the DNA fragment; and, in claims 70-72, it is not clear to what the claims are drawn. Accordingly, claims 62-64, 66 and 69 have been amended to recite the specific 5' end and 3' end primers used to obtain the DNA fragments; claims 70 and 71 have been amended to recite that the progeny and the seeds have in their genome at least two copies of the DNA fragment comprising RNA1 of the virus; and claims 70-72 have been amended to recite the phrases "progeny of the," "seeds of the" and "vegetatively reproducible structures from the," respectively, as suggested by the Examiner.

Claims 62-72 stand rejected under 35 U.S.C. 103(a) for purported unpatentability over Baulcombe in view of Saito et al. and Hall et al. The Examiner generally asserts that the claims do not recite any particular nucleotide sequence and that the sequences recited could be that from any BNYVV isolate. Claims 62-64, 66 and 69 as amended now recite specific 5' end and 3' end primers that are used to obtain the DNA fragment that comprises RNA1 of the virus. Applicants respectfully submit that neither Baulcombe, Saito et al. or Hall et al., alone or in combination, teach or suggest the specific nucleotide sequences as now claimed in claims 62-64, 66 and 69. Because claims 65, 67-68 and 70-72 depend either directly or indirectly from claims 62-64, 66 and 69, they too are believed to be nonobvious over Baulcombe in view of Saito et al. and Hall et al.

Finally, in a telephone interview with Examiner Mehta, on June 7, 2004, the Examiner granted our request to file a Supplemental Information Disclosure Statement

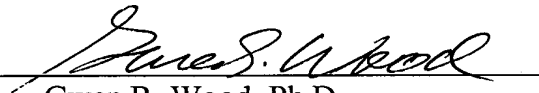
Application No. 09/889,938  
Paper Dated June 24, 2004  
In Reply to USPTO Correspondence of December 24, 2003  
Attorney Docket No. 4167-011069

reciting references cited in the specification of the present invention. Accordingly, Applicants submit the Supplemental Information Disclosure Statement herewith.

Based on the foregoing, Applicants respectfully submit that claims 62-72 now are patentable and in condition for allowance. Reconsideration of the rejections and allowance of claims 62-72 are respectfully requested.

Respectfully submitted,

WEBB ZIESENHEIM LOGSDON  
ORKIN & HANSON, P.C.

By   
Gwen R. Wood, Ph.D.  
Registration No. 51,027  
Attorney for Applicants  
700 Koppers Building  
436 Seventh Avenue  
Pittsburgh, Pennsylvania 15219-1818  
Telephone: 412-471-8815  
Facsimile: 412-471-4094  
E-mail: [webblaw@webblaw.com](mailto:webblaw@webblaw.com)